

Remarks/Arguments

In the Office Action, dated June 27, 2005, the examiner rejected claims 1-4, 14, and 16 under 35 U.S.C. §103(a) as being unpatentable over Hill in view of Albro. The applicant appreciates the examiner's withdrawal of the Ray reference. However, the applicant is now somewhat puzzled by the examiner's reasons for the current rejections and believes they are erroneous for several reasons, as discussed in more detail below.

First, it appears that the examiner has apparently equated "beveled" recited in claims 1, 14, and 16 with "thin" (See Office Action, page 3, lines 16-17). However, applicant could find no dictionary or other source that includes "thin" as a meaning or definition for "beveled", and Albro does not show or suggest a beveled surface.

Second, applicant's claims 1, 14, and 16 clearly recite that the beveled surface is concave, which, as explained in the specification, paragraph 0028, "tends to guide the belt clip C toward the middle of the width of the shelf 30 as the telephone T is being mounted" However, Albro discloses neither a concave recess nor any other structure that could be construed to guide Albro's pen P or clip C toward the middle of the width of Albro's device 10. Therefore, the obviousness rejection of claims 1-4, 14, and 16 under 35 U.S.C. §103(a) based on Hill in view of Albro is improper and should be withdrawn.

Albro's grooves 42 shown in his Figure 1 are clearly narrow channels with sharp, abrupt sidewalls and flat, non-beveled surfaces that have no angle of inclination, and they certainly are not concave, as recited in applicant's claims 1, 14, and 16. Consequently, it is also clear that there is no showing, suggestion, or even hint of any structure or shape whatsoever in either Albro or Hill that can function to guide Albro's pen clip or Hill's belt clip toward the middle of the width of the support platform as described and claimed in this patent application (See applicant's specification, paragraph 0028, and claims 1, 14, and 16).

On the contrary, it is clear from Albro's Figure 1 that Albro's pen clip C has to be almost perfectly aligned with his groove 42 before it can enter, and, once entered, there can be no transverse or guided movement of his pen clip C toward the middle of his device 10. Thus, the examiner's finding of a "thin" surface in Albro simply does not meet either the structure or the function of applicant's claimed beveled and concave surface recessed into the

underside of applicant's shelf. An obviousness rejection under 35 U.S.C. §103 is improper without some incentive or suggestion in the prior art references themselves to be combined in such a manner as to show the applicant's invention as asserted by the Examiner. *See In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998); *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Therefore, the Examiner's rejection of claims 1-4, 14, and 16 as being unpatentable under 35 U.S.C. §103 over Hill in view of Albro is improper and should be withdrawn.

As mentioned above, the applicant is very puzzled and troubled by the Examiner's apparent equation of "thin" to "beveled" and then his use of that equation to reject applicant's claim 1-4, 14, and 16. "Thin" simply means having a relatively small distance between opposite sides or surfaces (See, e.g., *The American Heritage Dictionary*, Houghton Mifflin Co., Boston, 1981), whereas "beveled" means an angle or an inclination of a line or surface that meets another at any angle but 90 degrees (*The American Heritage Dictionary, supra*). Further, the Examiner apparently just ignored the recitation of "concave" in applicant's claims 1, 14, and 16, which means curved like the inner surface of a sphere (*The American Heritage Dictionary, supra*). These words have meanings that are supported by the specification and drawings and should not be ignored or re-defined to equate with a different structure shown in Albro. Therefore, claim 1-4, 14, and 16 should be allowed, as explained above.

To further counter the Examiner's showing of merely thin in Albro, the applicant is adding claims 17-20 to even more clearly distinguish the present invention from Albro and Hill and to recite in even more explicit terms the feature (recess 42 in Figures 3, 4, 5, and 7) of the applicant's invention that provides the functions of not only helping to spread the belt clip (specification, paragraph 0027) but also tending to guide the belt clip toward the middle (specification, paragraph 0028). It is clear from Figures 3, 4, 5, and 7 of the present patent application that applicant's recessed surface 42 adjacent the distal end 28 tapers (i.e., gradually decreases in thickness) both longitudinally and transversely --- longitudinally toward the distal end as well as transversely toward the middle of the width between the opposite sides 35, 37 of the shelf 30. The longitudinal taper helps to spread the belt clip, and the transverse tapers toward the middle tend to guide the belt clip toward the middle. "Thin"

as shown by Albro is not the same as the longitudinally and transversely tapered recess. The word “taper” means, *inter alia*, any of the following: (i) A gradual decrease in width or thickness of an elongated object; (ii) To become gradually thinner or narrower toward one end; (iii) To make narrower or thinner at one end; (iv) To diminish or make smaller gradually; or (v) Gradually decreasing in size toward a point (*The American Heritage Dictionary, supra*). Neither this structure shown in applicant’s Figures 3, 4, 5, and 7 and recited in new claim 17 nor this combination of functions enabled by this claimed structure is shown or fairly suggested by Hill or Albro or by any other prior art cited by the examiner. Therefore, claim 17 is clearly allowable.

Dependent claims 18-20 further define the longitudinal and transverse slopes recited in claim 17 as being concave, as also shown in Figures 3, 4, 5, and 7. Again, none of the prior art references shown or suggest these features, so claims 18-20 are also allowable.

The applicant is also puzzled by the examiner’s repetitious obviousness-type double patenting rejection, which was included in the first Office Action, Paper No. 5, dated October 28, 2003, in the second Office Action, dated October 26, 2004, and now again in this third Office Action, dated June 27, 2005. The applicant has already filed a Terminal Disclaimer and fee with its response to the first Office Action, which was received by the Patent and Trademark Office on April 2, 2004. The applicant reminded the examiner in the Remarks of applicant’s Amendment in Response to Final Office Action, filed on March 31, 2005, that applicant has already filed the Terminal Disclaimer. Now, the examiner has repeated again the obviousness-type double patenting rejection, in the most recent Office Action, dated June 27, 2005. Again, the applicant believes this repeated obviousness-type double patenting rejection should be moot in view of the Terminal Disclaimer that was filed on April 2, 2004.

In summary, all of the claims 1-4, 14, and 16-20 are believed to be allowable for the reasons explained above. Therefore, the Examiner is requested to reconsider the previous rejections of those claims and to grant an early allowance. If there are any remaining issues to be resolved, the Examiner is requested to contact applicant's attorney at the telephone number listed below.

Respectfully Submitted,
COCHRAN FREUND & YOUNG LLC

By: 

James R. Young
Reg. No. 27,847
Tel.: 970-492-1100
Fax: 970-492-1101

Date: December 22 2005